

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

ERRIOR HAYDEN and THOMAS	)	
PLEASANT, individually and on	)	
behalf of all others similarly situated,	)	
	)	
Plaintiffs,	)	No. 1:12-cv-1583
	)	
	)	
v.	)	Judge John Z. Lee
	)	
FRESH EXPRESS INCORPORATED,	)	Magistrate Judge Nan Nolan
	)	
	)	
Defendant.	)	

**PLAINTIFFS' UNCONTESTED MOTION FOR PRELIMINARY APPROVAL  
OF CLASS ACTION SETTLEMENT; CONDITIONAL CERTIFICATION OF A  
SETTLEMENT CLASS; DESIGNATION OF CLASS REPRESENTATIVES  
AND APPOINTMENT OF CLASS COUNSEL; APPROVAL OF THE FORM  
AND MANNER OF CLASS SETTLEMENT NOTICE; AND SCHEDULING A  
FINAL FAIRNESS HEARING**

Pursuant to Federal Rule of Civil Procedure 23, Plaintiffs asks the Court to enter an order:

1. Preliminarily approving the class-wide Settlement Agreement negotiated by the parties;
2. Conditionally certifying this case as a class action for settlement purposes only and defining the Class as: "employees or job applicants who applied to work for or worked for Fresh Express or Chiquita Brands International, Inc. locations during the time frame of March 5, 2010 to March 15, 2012 and who are identified in the Class List attached as Exhibit B. These individuals worked for or applied to work for Fresh Express or Chiquita Brands International, Inc. during the

Covered Period and may have suffered an adverse action based upon information obtained in a consumer report.”;

3. Designating the Named Plaintiffs, Errior Hayden and Thomas Pleasant, as a representative for the Class and his attorneys as Class Counsel;

4. Approving the form and manner of class notice;

5. Setting a date for a final fairness hearing; and

6. Pending the outcome of a final fairness hearing, preliminarily enjoining all members of the Class from commencing, prosecuting, or maintaining any claim already asserted in and encompassed by this Action, or challenging or seeking review of or relief from any order, judgment, act decision or ruling of this Court in connection with the Settlement Agreement.

7. A draft order is attached to the memorandum of law filed in support of this motion.

WHEREFORE, the Plaintiffs requests entry of the attached draft order or a similar order.

Respectfully submitted,

/s/ Christopher J. Wilmes

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